IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

WP(C).No. 26269 of 2005(B)

PETITIONER:

C.R. VIJAYAN, S/O. RAMAN PILLA,
WORKSHOP FOREMAN, GOVERNMENT PRESS,
MANNUMTHALA, THIRUVANANTHAPURAM.

BY ADV. SRI.SAIGI JACOB PALATTY

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY HIGHER EDUCATION (H)
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. DIRECTOR OF PRINTING,
GOVERNMENT CENTRAL PRESS, THIRUVANANTHAPURAM.

3. M. KRISHNAN,
CHIEF WORKSHOP FOREMAN, GOVT. CENTRAL PRESS,
THIRUVANANTHAPURAM.

BY ADV. SRI.V.A.MUHAMMED - R3
SRI.K.E.HAMZA
GOVT. PLEADER SRI.P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.26269/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE ADVICE MEMO OF PSC DT. 29.4.88.

EXT.P2:- COPY OF THE APPOINTMENT ORDER DT. 22.6.90.

EXT.P3:- COPY OF THE ORDER DECLARING THE PROBATION OF THE PETITIONER IN THE POST OF TECHNICIAN GRADE TO DT. 22.6.90.

.EXT.P4:- COPY OF THE ORDER PROMOTING THE PETITIONER AS TECHNICIAN GRADE 1 DT. 10.11.90.

EXT.P5:- COPY OF THE G.O.(MS) NO.329/84/EDN. DT. 11.12.84 SANCTIONING RE-ORGANIZATION AND CREATION OF ADDITION POST.

EXT.P6:- COPY OF THE ORDER DT. 18.6.91 PROMOTING THE PETITIONER AS TECHNICIAN.

EXT.P7:- COPY OF THE ORDER DT. 2.7.97 PROMOTING THE PETITIONER AS MECHANIC.

EXT.P8:- COPY OF THE ORDER DT. 27.2.98 PROMOTING THE PETITIONER AS SENIOR MECHANIC.

EXT.P9:- COPY OF THE ORDER DT. 3.7.2000 PROMOTING THE PETITIONER AS FOREMAN (WORKSHOP).

EXT.P10:- COPY OF THE ORDER DT. 31.7.01 DECLARING THE PROBATION OF THE PETITIONER AS FOREMAN WORKSHOP).

EXT.P11:- COPY OF THE GOVT. G.O. NO.850/92/H.EDN. DT. 1.6.92.

EXT.P12:-COPY OF THE G.O. NO.930/92/H.EDN. DT. 19.6.92.

EXT.P13:- COPY OF THE ORDER DT. 19.11.99 APPOINTING SRI.M.V.ARUMUGHAN AS CHIEF FOREMAN.

EXT.P14:- COPY OF THE CERTIFICATE OF DIPLOMA IN ELECTRICAL ENGINEERING AWARDED TO THE PETITIONER.

EXT.P15:- COPY OF THE REPRESENTATION DT. 4.1.03 TO THE 2ND RESPONDENT.

EXT.P16:- COPY OF THE ORDER DT. 23.10.03 BY THE 2ND RESPONDENT APPOINTING THE 3RD RESPONDENT AS CHIEF FOREMAN (WORKSHOP).

EXT.17:- COPY OF THE FULL BENCH JUDGMENT DT. 4.11.04 IN OP. NO.18887/95.

W.P.(C) NO.26269/205

EXT.P18:- COPY OF THE ORDER DT. 2.3.05 OF THE 2ND RESPONDENT.

EXT.P19:- COPY OF THE ORDER NO.A2/5869/96 DT. 13.3.96 ISSUED BY JOINT DIRECTOR OF TRAINING.

EXT.P20:- COPY OF THE REPRESENTATION DT. 10.6.05 TO THE 1ST RESPONDENT BY THE PETITIONER.

EXT.P21:- COPY OF THE JUDGMENT DT. 28.6.05 IN WP NO.19268/05.

EXT.P22:- COPY OF THE GOVERNMENT G.O.(RT) NO.1381/05/HDN. DT. 12.8.05 ISSUED BY THE 1ST RESPONDENT.

EXT.P23:- COPY OF THE PROCEEDS OF 2ND RESPONDENT DT. 18.7.05 ISSUING REVISED PRELIMINARILY SENIORITY LIST.

EXT.P24:- COPY OF THE REPRESENTATION DT. 15.9.03 TO THE 2ND RESPONDENT.

EXT.P25:- COPY OF THE REPRESENTATION DT. 15.9.03 TO THE 2ND RESPONDENT.

<u>RESPONDENTS EXHIBITS</u>

EXT.R3(a):- COPY OF THE JUDGMENT IN OP. NO.3917/80 DT. 12.3.85.

EXT.R3(b):- COPY OF THE ORDER NO.40819/88/E8 OF THE 2ND RESPONDENT DT. 31.7.90.

EXT.R3(c):- COPY OF THE JUDGMENT IN W.A. NO.149/90 DT. 14.1.92.

EXT.R3(d):- COPY OF THE ORDER IN SPECIAL LEAVE TO APPEAL (CIVIL) NOS. 7344/92 OF THE HONOURABLE SUPREME COURT. DT. 20.11.95.

EXT.R3(e):- COPY OF THE LETTER NO.291/H1/96/H. EDN. OF THE GOVERNMENT. DT. 12.7.96.

EXT.R3(f):- COPY OF THE D.O. LETTER NO.S2-SLP(C) 7344/92 OF THE ADVOCATE GENERAL , KERALA. DT. 6.1.97.

EXT.R3(g):- COPY OF THE PROCEEDINGS ORDER NO.57729/83/E9 OF THE DIRECTOR OF PRINTING DT. 15.12.83.

EXT.R3(h):- COPY OF THE -DO- NO.35219/88/E9 OF -DO- -DO- DT. 13.10.88.

EXT.R3(i):- COPY OF THE -DO- NO.32104/E9/85 OF -DO- DT. 15.3.85.

/TRUE COPY/

P.A. TO JUDGE

ANTONY DOMINIC,J.

W.P (C) No. 26269 of 2005

Dated this the 8th day of August, 2007

J U D G M E N T

The petitioner is working as Foreman (workshop) in the Government Press. He claims that his seniority should be fixed as Diploma holder in the category of Foreman (Workshop) in the mechanical department and that on the basis of seniority so fixed, his eligibility for promotion to the post of Chief Foreman (workshop) should be determined. It is on that basic premise, this writ petition has been filed by the petitioner seeking a declaration that as per the Special Rules, the Diploma in Electrical Engineering entitles him to the post of Foreman (workshop) in the ratio of 1:1. He is also seeking to get the promotion of the 3rd respondent to the post of Chief Foreman quashed.

2. The basic facts are that there was a reorganisation in the Government Press by Exhibit-P5 dated 11-12-1984 and a reorganisation between work shop, electrical section and mechanical section etc. It is subsequent to that the petitioner, who was possessing I.T.I, entered service as Technician Gr.II and earned promotion and has now reached the stage of Senior

Mechanic since 1988. While in service he acquired Diploma in Electrical Engineering during 1994. The promotions that he earned upto the post of Foreman (workshop) in the mechanical department are on the basis of the I.T certificate he holds.

3. In so far as the 3rd respondent is concerned, he has acquired I.T.I. as the petitioner and entered service in 1979 and he became Foreman (workshop) in November 1997. Reckoning the seniority of the 3rd respondent as an I.T holder he was thereafter promoted to the post of Chief Foreman with effect from 23.10.2003. It is contended by the petitioner that in the judgment rendered by the Full Bench of this Court the ratio of 1:1 between diploma holders and certificate holders in the category of Foreman was upheld by this Court with effect from 30.1.1978 and following that the seniority of the employees was recast and he is recognised as a Diploma holder in the category of Foreman.

4. According to the petitioner, as per the Special Rules Diploma in any discipline would be sufficient for promotion and as he is a diploma holder in Electrical discipline he should be treated as eligible against the vacancy in the mechanical

discipline. According to him despite the re-organisation of the printing press as per Ext.P5, in the absence of any further amendment to the Special Rules, one has to take that the qualification should be in any of the discipline specified.

5. In so far as this case is concerned petitioner is admittedly working in the mechanical department and therefore his diploma in electrical can be of no use to him and on that basis he cannot be considered for further promotion. His entitlement for further promotion should be determined, only be as an I.T holder and on that basis whatever is due to him alone can be asserted and obtained, since his qualification as a diploma holder in the electrical discipline is irrelevant in the mechanical discipline. I also notice that as a Diploma Holder in Electrical discipline he would not have been even opted in the lower post, which is in the mechanical discipline.

6. His entitlement for further promotion to the post of Chief Foreman has to be determined in accordance with the Special Rules and on the basis of his seniority in the feeder category. Admittedly, the 3rd respondent entered service in 1979 and became a Foreman (workshop) in November 1997.

Petitioner came to that category only in July 2000. Evidently, therefore, the 3rd respondent is far senior to the petitioner and therefore his promotion to the higher post of Chief Foreman (3rd respondent) with effect from 1.10.2003 also cannot be faulted.

7. Further case of the petitioner is that the post of Chief Foreman (workshop) should be filled in the ratio of 1:1 as held by this Court I am not able to accept the contention. There is only post as Chief Foreman and the ratio laid down for the lower post of Foreman (workshop) is inapplicable in so far as the post of Chief Foreman is concerned. It is so held in Ext.P22 also.

For these reasons, I do not find any merit in this case warranting interference with Ext. P22. The writ petition is only to be dismissed and I do so.

(ANTONY DOMINIC, JUDGE)

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True copy

P.A to Judge

K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007